

ERIC S. SMITH, Bar No. F 0157
SMITH & WILLIAMS
Attorneys at Law
P.O. Box 5133 CHRB
Saipan MP 96950
Tel: 233-3334
Fax: 233-3336

Attorneys for Plaintiff

FILED
Clerk
District Court

NOV - 8 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

ANGELO M. LABORCE,

Plaintiff,

v.

S-WON INC., P&S, INC., YOUNG
KYUN KIM, JOHN GERALD
PANGELINAN, DANIEL MUNA
QUITUGUA, DARREL MUNA
QUITUGUA and JOE CRISOSTOMO,

Defendants.

Civil Action No. 05-

0036

DECLARATION IN SUPPORT OF
APPLICATION FOR
PRE-JUDGMENT ATTACHMENT

Date:
Time:
Judge:

I, ERIC S. SMITH, declare that if called as a witness, I would competently and truthfully testify as follows:

1. I am one of the attorneys for Plaintiff for the above entitled action and that I am authorized to make this affidavit for or on behalf of Plaintiff.
2. This action is brought for the recovery of money, and that a summons has been issued in such action.
3. A cause of action exists against Defendants S-Won Corporation (S-WON) and Young Kyun Kim (KIM) and the amount of Plaintiff's claim is more than \$75,000.00.
4. Plaintiff's claim is just based on the following facts:

- 1 5. Defendant Young Kyun Kim is the sole shareholder of Defendant S-Won.
- 2 6. On April 19, 2004, at approximately 5:00 a.m., Plaintiff was working as a security
- 3 guard at Capitol Poker, when he was injured in a burglary/robbery incident.
- 4 7. Plaintiff was injured when his hand was hit by a gunshot fired by Defendant John
- 5 Pangelinan.
- 6 8. At the time of the burglary/robbery, Plaintiff was employed by Defendant S-Won
- 7 and was at the Capitol Poker under the course and scope of Plaintiff's
- 8 employment with Defendants S-WON and KIM.
- 9 9. Because Plaintiff's injury arose out of and in the course of his employment with
- 10 Defendants S-WON and KIM, he is entitled to compensation under 4 CMC
- 11 §9301, *et seq.*, the Workers Compensation Law.
- 12 10. Pursuant to 4 CMC §9301 *et seq.*, an employer is required to acquire worker's
- 13 compensation insurance for each of its employees to assure benefits to the
- 14 employees if they are injured while at work.
- 15 11. Defendants S-WON, P&S and KIM failed to obtain a workers compensation
- 16 insurance for the benefit of Plaintiff.
- 17 12. As a result of Defendants S-WON and KIM's failure to obtain workers
- 18 compensation insurance, Plaintiff was deprived of the benefits that he is entitled
- 19 for his injuries, damages, and disabilities sustained from the robbery/burglary
- 20 incident.
- 21 13. The grounds for the application for writ of attachment are as follows:
- 22 14. Upon information and belief, Defendants S-WON and KIM have plans on closing
- 23 their business in the CNMI.
- 24 15. Upon information and belief, Defendant KIM abused S-WON's corporate form by
- 25 undercapitalization, failure to observe corporate formalities, nonpayment of
- 26 dividends, siphoning of corporate funds, non functioning of officers or directors,
- 27 absence of corporate records, use of the corporate form as a facade for the
- 28 operations of Defendant KIM as the sole stockholder, co-mingling funds of

1 Defendant KIM and Defendant S-WON, and use of the corporate form in
2 promoting injustice.

3 16. Defendant KIM has a bank account in his name at the Bank of Hawaii. Defendant
4 KIM used this account to pay Plaintiff sums that are the responsibility of
5 Defendant S-WON.

6 17. Upon information and belief, Defendant KIM, no longer resides in the CNMI and
7 for the past six months, has only been back in the CNMI two times.

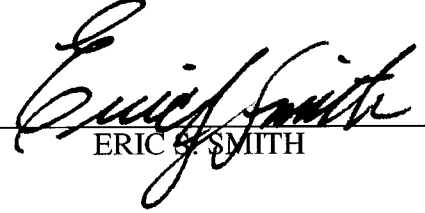
8 18. Prior to filing the complaint in this matter, Plaintiff's attorneys have been
9 promised on three different occasions by representatives of Defendants S-WON
10 and KIM that they will meet and confer with Plaintiff's attorneys to settle their
11 obligation to Plaintiff.

12 19. At each scheduled appointment, neither Defendants nor their representatives
13 appeared at the scheduled meeting.

14 20. Plaintiff's claim is within the jurisdiction of this Court and that the property
15 sought to be attached is not exempt from attachment to satisfy a judgment or
16 order.

17 21. Plaintiff is in danger of losing his claim against Defendants S-WON and KIM by
18 reason of the facts mentioned above unless a writ of attachment issues and
19 Plaintiff therefore requests that such writ be allowed and issued against the
20 property of such Defendants.

21
22 I declare under penalty of perjury that the foregoing is true and correct and
23 that this Declaration was executed on November 4, 2005, in Garapan,
24 Saipan, Commonwealth of the Northern Mariana Islands.

25 
26 ERIC SMITH
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